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Chapter 74

Telecommunications

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ARTICLE I. IN GENERAL

Secs. 74-1 -- 74-30. Reserved

ARTICLE II. TOWERS

DIVISION 1. GENERALLY

Sec. 74-31. Purpose

This ordinance is designed and intended to balance the interests of the residents of the county telecommunications providers, and telecommunications customers in the siting of telecommunications facilities within the county so as to protect the health, safety and integrity of residential neighborhoods and foster, a competitive environment for telecommunications carriers that does not unreasonably discriminate among providers of functionally equivalent personal wireless services and shall not prohibit or have the effect of prohibiting the provision of personal wireless services, and so as to promote the county as a proactive county in the availability of personal wireless telecommunications service. To that end, this article shall:

- 1) Provide for the appropriate location and development of telecommunications facilities in the county.
- 2) Protect the county built and natural environment by promoting compatible design standards for telecommunications facilities;
- 3) Minimize adverse visual impacts of telecommunications facilities through careful design, siting, landscape screening and innovative camouflaging techniques;
- 4) Avoid potential damage to adjacent properties from tower or antennae failure through engineering and careful siting of telecommunications tower structures and antennae;
- 5) Maximize use of any new and existing telecommunications towers so as to minimize the need to construct new towers and minimize the total number of towers throughout the county;
- 6) Maximize and encourage use of alternative telecommunication tower structures as a primary option rather than construction of additional single-use towers; and
- 7) Encourage and promote the location of new telecommunications facilities in areas which are not for residential use.

Sec. 74-32. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Antenna means any exterior apparatus designed for the sending and/or receiving of electromagnetic waves for telephonic, radio, television, or personal wireless services. For the purposes of this ordinance the term "antenna" does not include any tower and antenna under seventy (70) feet in total height which is owned and operated by an amateur radio operator licensed by the Federal Communications Commission, any device designed for over-the-air reception of radio or television broadcast signals, multichannel multipoint distribution service or direct broadcast satellite service, or any cable television headend or hub towers and antennae used solely for cable television services.

Director means the county administrator or his/her designee.

Micro telecommunications facilities are those which are located on existing buildings, poles or other existing support structures where antennae do not project more than three feet above the top of the structure and there are no more than six antennae per site.

Macro telecommunications facilities are those which are located on existing buildings, poles or other existing support structures and which project more than three feet above the top of the structure but no more than ten feet above the roof line, parapet or top of the structure. Macro telecommunication facilities may exceed the height limitation specified for the zoning district.

Monopole tower means a telecommunications tower consisting of a single pole, constructed without guy wires or ground anchors.

Telecommunications facilities refers to antennae and towers, either individually or together.

Tower means a structure, such as a lattice tower, guy tower, or monopole tower, constructed as a free-standing structure or in association with a building, other permanent structure or equipment, on which is located one or more antennae intended for transmitting or receiving analog, digital, microwave, cellular, telephone, personal wireless service or similar forms of electronic communication. The term includes microwave towers, common carrier towers, and cellular telephone towers.

Sec. 74-33. Exemptions.

The following shall be exempt from this ordinance.

- 1) Any tower and antenna under 70 feet in total height which is owned and operated by an amateur radio operator licensed by the Federal Communications Commission;
- 2) Any device designed for over-the-air reception of television broadcast signals, multichannel multipoint distribution service or direct broadcast satellite service; or
- 3) Any telecommunications facilities located on property owned, leased or otherwise controlled by Stephens County provided a license or lease authorizing the telecommunications facility has been approved by the Governing Body.
- 4) Any cable television headend or hub towers and antennae used solely for cable television services.

Sec. 74-34. Preferred and disfavored location sites.

(a) Preferred Location Sites

- 1) *Collocation Sites:* Any existing telecommunications towers currently being used for transmitting or receiving analog, digital, microwave, cellular, telephone, personal wireless service or similar forms of electronic communication shall be a Preferred Location Site provided, however, that locations which meet this criteria shall be subject to the design and siting components of this ordinance and co-location sites shall not become an "antenna farm" or otherwise be deemed by the director or the board of commissioners to be visually obtrusive.
- 2) *Publicly-used structures:* Publicly-used structures are preferred locations throughout the county because they appear in virtually all neighborhoods, are dispersed throughout the county, and due to their institutional or infrastructure uses are generally similar in appearance to or readily adaptable for telecommunications facilities. Therefore, telecommunications facilities should be less noticeable when placed on publicly-used structures than when placed on commercial or residential structures. Publicly-used structures include, but are not limited to, facilities such as police or fire stations, libraries, community centers, civic centers, courthouses, utility structures, water towers, elevated roadways, bridges, flag poles, schools, hospitals, clock or bell towers, light poles and churches.
- 3) *Industrial and Commercial Structures:* Wholly industrial and commercial structures such as warehouses, factories, retail outlets, supermarkets, banks, garages, or service stations shall be Preferred Locations particularly where existing visual obstructions or clutter on the roof or along a roofline can and will be removed as part of the installation of the telecommunications facility.

- 4) *Mixed Use Buildings in High Density Districts*: Mixed use buildings (housing above commercial or other non-residential space) are also Preferred Location sites.
- (b) *Disfavored Location Sites*: Any single-family residential structure or site or multi-family duplex shall be a disfavored site for the location of telecommunications facilities.

Sec. 74-35. Penalty for violation.

- (a) Any person who attempts to erect or erects a telecommunications facility covered by this article without having first obtained the necessary building permit, special use permit or variance in the manner provided in this article shall be deemed in violation of this article. Any responsible party or other persons convicted by a court of competent jurisdiction of violating any provision of this article shall be guilty of violating a duly adopted article of the county and shall be punished either by a fine not to exceed \$1000.00 or by imprisonment not to exceed 30 days or both. The court shall have the power and authority to place any person guilty of violation of this article on probation and to suspend or modify any fine or sentence. As a condition of such suspension, the court may require payment of restitution or impose other punishment allowed by law.
- (b) If any structure is erected, constructed, reconstructed, altered, repaired, converted or maintained in violation of this article or without obtaining the required permits, or if any building, structure or land is used in violation of this article, the county attorney, in addition to any other remedies, may institute proceedings to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use or to correct or abate such violations. Each and every day such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use continues may be deemed a separate offense.

DIVISION 2. REQUIREMENTS

Sec. 74-61. Scope

The requirements set forth in this division shall govern the location and construction of all telecommunications facilities governed by this article.

Sec. 74-62 Building Codes and Safety Standards.

To ensure the structural integrity of telecommunications facilities, the owner of a telecommunications facility shall ensure that it is maintained in compliance with standards contained in applicable local building codes and the applicable standards for such telecommunications facilities, as amended from time to time. Owners of telecommunications facilities shall conduct periodic inspections of such facilities at least once every year to ensure structural integrity. Inspections shall be conducted by a qualified, independent engineer licensed to practice in the state. The results of such inspection shall be provided to the director.

Sec. 74-63 Regulatory Compliance

- (a) All telecommunications facilities must meet or exceed current standards and regulations of the FAA, the FCC and any other agency of the state or federal government with the authority to regulate telecommunications facilities. If such standards and regulations are changed then the owners of the telecommunications facilities governed by this ordinance shall bring such telecommunications facilities into compliance with such revised standards and regulations within the date established by the agency promulgating the standards or regulations.
- (b) Owners of telecommunications facilities shall provide documentation showing that each telecommunications facility is in compliance with all applicable federal and state requirements. Evidence of compliance must be submitted every 12 months.

Sec. 74-64. Security.

All telecommunications facilities shall be equipped with an appropriate anti-climbing device or other similar protective device to prevent unauthorized access to the telecommunications facility.

Sec. 74-65. Lighting.

No illumination is permitted on telecommunications facilities unless required by the FCC, FAA or other state or federal agency of competent jurisdiction or unless necessary for air traffic safety. If lighting is required or necessary, the director may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding uses and views.

Sec. 74-66. Advertising.

No advertising is permitted on telecommunications facilities. However, a whip antenna may be allowed on any legally permitted permanent billboard or outdoor advertising sign as long as the other requirements of this ordinance are met.

Sec. 74-67. Visual Impact.

- (a) Telecommunications facilities shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA or other applicable federal or state agency, be painted a neutral color or painted and/or textured to match the existing structure so as to reduce visual obtrusiveness.
- (b) If an antenna is installed on a structure other than a tower, the antenna and associated electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible. Roof-mounted antennas shall be made visually unobtrusive by screening to match existing air conditioning units, stairs, elevator towers or other background.
- (c) Where feasible, telecommunications facilities should be placed directly above, below or incorporated with vertical design elements of a building to help in camouflaging.

- (d) Telecommunications facilities shall not be placed in a direct line of sight with historic or scenic view corridors as designated by the board of commissioners or by any state or federal law or agency.
- (e) Any equipment shelter or cabinet that supports telecommunications facilities must be concealed from public view or made compatible with the architecture of the surrounding structures or placed underground. Equipment shelters or cabinets shall be screened from public view by using landscaping or materials and colors consistent with the surrounding backdrop. The shelter or cabinet must be regularly maintained.

Sec. 74-68. Landscaping

- (a) Landscaping shall be used to effectively screen the view of the telecommunications facility from adjacent public ways, public property and residential property.
- (b) Native vegetation on the site shall be preserved to the greatest practical extent. The applicant shall provide a site plan showing existing significant vegetation to be removed, and vegetation to be replanted to replace that lost.
- (c) The director may waive or modify the landscaping requirement where lesser requirements are desirable for adequate visibility for security purposes, for continued operation of existing bona fide agricultural or forest uses such as farms, nurseries and tree farms or where an antenna is placed on an existing structure. In certain locations where the visual impact of the tower would be minimal, such as remote agricultural or rural locations or developed heavy industrial areas, the landscaping requirement may be modified or waived by the director.

Sec. 74-69. Maintenance Impacts.

Equipment at a transmission facility shall be automated to the greatest extent possible to reduce traffic and congestion. Where the site abuts or has access to a collector or local street, access for maintenance vehicles shall be exclusively by means of the collector or local street.

Sec. 74-70 Principal, Accessory and Joint Uses.

- (a) Accessory structures used in direct support of a telecommunications facility shall be allowed but not be used for offices, vehicle storage or other outdoor storage. Mobile or immobile equipment not used in direct support of a telecommunications facility shall not be stored or parked on the site of the telecommunications facility.
- (b) Telecommunications facilities may be located on sites containing another principal use in the same buildable area.

Sec. 74-71. Lot Size and Setbacks.

- (a) The following setback requirements shall apply to all telecommunications facilities, provided however, that the director may reduce the standard setback requirements of this section if the goals of this ordinance would be better served thereby.

- 1) Telecommunications towers must be set back a distance equal to the height of the tower from any off-site residential structure.
 - 2) Towers, guy wires and accessory facilities must satisfy the minimum zoning district setback requirements.
 - 3) Telecommunications facilities must be setback from any property line a sufficient distance to protect adjoining property from the potential impact of telecommunications facility failure by being large enough to accommodate such failure on the site, based on the engineer's analysis required in section 74-91.
- (b) For antennas attached to the roof or a supporting structure on a rooftop, a 1:1 setback ratio (example: ten-foot high antenna and supporting structure requires ten-foot setback from edge of roof) shall be maintained unless an alternative placement is shown to reduce visual impact.

Sec. 74-72. Additional Requirements.

- (a) Site location and development shall preserve the preexisting character of the surrounding buildings and land uses and the zone district as much as possible. Personal wireless telecommunication towers shall be integrated through location and design to blend in with existing characteristics of the site to the extent practical.
- (b) Existing on-site vegetation shall be preserved or improved, and disturbance of the existing topography shall be minimized, unless such disturbance would result in less visual impact of the site to the surrounding area.
- (c) At a tower site the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend the tower and related facilities to the natural setting and built environment.
- (d) Towers shall not be located any closer than 1500 feet from an existing tower unless technologically required or visually preferable.
- (e) When a tower is adjacent to a residential use, it must be set back from the nearest residential lot line a distance at least equal to its total height.
- (f) Towers shall not be sited where they will negatively affect historic or scenic view corridors as designated by the board of commissioners or any state or federal law or agency or where they will create visual clutter.
- (g) Towers shall be enclosed by decay-resistant security fencing not less than six feet in height and shall be equipped with an appropriate anti-climbing device or other similar protective device designed to prevent tower access.
- (h) Placement of more than one tower on a lot shall be permitted, provided all setback, design and landscape requirements are met as to each tower. Structures may be located as close to each other as technically feasible,

provided tower failure characteristics of the towers on the site will not lead to multiple failures in the event that one fails.

DIVISION 3. PERMITS

Sec. 74-91. Application procedures.

Application for a building permit or special use permit for any telecommunications facility shall be made to the director by the person, company or organization that will own and operate the telecommunications facility. An application will not be considered until it is complete. The following information shall be submitted when applying for any building permit, special use permit or other permit or variance included in this article and must be submitted for an application to be considered complete:

(1) *Basic Information*

- a. Site plan or plans to scale specifying the location of telecommunications facilities, transmission building and/or other accessory uses, access, parking, fences, landscaped areas, and adjacent land uses. Applicants shall submit both a paper location map and a digitized location map in a format compatible with the GIS software currently utilized by the county.
- b. Landscape plan to scale indicating size, spacing and type of plantings required in section 74-68.
- c. A full description of the environment surrounding the proposed telecommunications facility, including any adjacent residential structures and districts, structures and sites of historic significance, streetscapes or scenic view corridors.
- d. A description of anticipated maintenance needs for the telecommunications facility, including frequency of service, personnel needs, equipment needs, and traffic, noise or safety impacts of such maintenance.
- e. Report from a qualified, independent engineer licensed in the State of Georgia, documenting the following:
 1. Telecommunications facility height and design, including technical, engineering, economic, and other pertinent factors governing selection of the proposed design;
 2. Total anticipated capacity of the telecommunications facility, including number and types of antennae which can be accommodated;
 3. Evidence of structural integrity of the tower structure; and
 4. Structural failure characteristics of the telecommunications facility and demonstration that site and setbacks are of adequate size to contain debris.
- f. A definition of the area of service to be served by the antenna or tower and whether such antenna or tower is needed for coverage or capacity.
- g. Information showing the proposed facility would provide the needed coverage or capacity.

- h. The identity of a community liaison officer appointed by the applicant to resolve issues of concern to neighbors and residents relating to the construction and operation of the facility. Include name, address, telephone number, facsimile number and electronic mail address, if applicable.
- i. Identification of the geographic service area for the subject installation, including a map showing the site and the nearest or associated telecommunications facility sites within the network. Describe the distance between the telecommunications facility sites. Describe how this service area fits into and is necessary for the service network.
- j. Designation of which location preference, identified in section 74-34, above, the proposed facility is meeting. If the proposed location is not a preferred location is not a preferred location as described in subsections 74-34(a)(1)-(4) or is a disfavored site, a description of:
 - 1. What publicly-used building, co-location site or other preferred location Sites are located within the geographic service area. Provide a list (by address with lot and block number noted) and a map at 1:200 scale of all such buildings within the service area;
 - 2. What good faith efforts and measures were taken to secure each of these preferred location sites;
 - 3. Why each such site was not technologically, legally or economically feasible and why such efforts were unsuccessful; and
 - 4. How and why the proposed site is essential to meet service demands for the geographic service area and citywide [sic countywide] network.

(2) *Five Year Plan and Site Inventory.*

Each application shall include a five-year facilities plan and site inventory including the following:

- a. A list of all existing, existing to be upgraded or replaced, and proposed telecommunications facility sites within the county and within one mile of the county line and a map showing these sites. The list must include the following information for each site:
 - 1. Street address;
 - 2. Assessor's block and lot or other applicable ad valorem tax identification number;
 - 3. Land use type;
 - 4. Type of building (commercial, residential, mixed use) and number of stories;
 - 5. The number of antennas and base transceiver stations per site and the location and type of antenna installation (stand alone rooftop, building facade, etc.) and location of the base

transceiver station installation;

6. The height from grade to the top of the antenna installation;
and

7. The radio frequency range in megahertz, the wattage output of
the equipment and effective radiated power.

b. If the applicant does not know specific future tower and
antenna site locations but does know of areas where
telecommunications facilities will be needed within the next five
years to provide service, the applicant shall list the assessor's
blocks contained within the anticipated geographic service area
and identify each geographic service area with a number that will
correspond to the future telecommunication facility site.

(3) *Additional Information Requirements:*

a. If the land use for the proposed site is designated as disfavored,
and there are alternative sites in preferred locations, applicants
must justify why those alternate sites have not been proposed. The
director will review with special care justifications that appeal
only to undue expense and/or to undue difficulties in entering into
a lease agreement. The director shall carefully weigh such claims,
and the evidence presented in favor of them, against a project's
negative impacts at the proposed site.

b. Applicants must identify all existing towers and all towers for
which there are applications currently on file with the Director.
Applicants must provide evidence of the lack of space on all
suitable existing towers to locate the proposed antenna and of the
lack of space on existing tower sites to construct a tower for the
proposed antenna. If co-location on any such towers would result in
less visual impact than the visual impact of the proposed tower,
applicants must justify why such collocation is not being proposed.
If co-location on any such tower would increase negative visual
impact, then the applicant must so state and demonstrate. The
Director will review with special care justifications that appeal
only to undue expense and/or to undue difficulties in entering into
a lease agreement. The director shall carefully weigh such claims,
and the evidence presented in favor of them, against a project's
negative impacts at the proposed site.

c. Applicants must demonstrate that they cannot provide personal
wireless communication service without the use of a
telecommunications tower.

d. The applicant shall quantify the additional tower capacity
anticipated, including the approximate number and types of
antennae. The applicant shall provide a drawing for each tower
showing existing and proposed antennae locations. The applicant
shall also describe any limitations on the ability of the tower to
accommodate other uses, e.g., radio frequency interference, mass
height, frequency or other characteristics. The applicant shall
describe the technical options available to overcome those
limitations and reasons why the technical options considered were
not chosen to be incorporated. The director shall approve those

- e. The applicant must provide a utilities inventory showing the locations of all water, sewage, drainage, and power lines impacting the proposed tower site.
- f. The applicant must provide any other information which may be requested by the director to fully evaluate and review the application and the potential impact of a proposed telecommunications facility.

****note: the following amendment in b **old** text replaces herein
deleted chapters relating to special use permits****

AMENDMENT:

SECTION 74-91(4) APPROVAL PROCEDURES

After filing of the application with the board of commissioners, the applicant shall publish a notice of the application in the official county organ at least four (4) times within the four (4) weeks prior to the regular board of commissioners meeting at which the application is to be presented and considered. The notice shall contain the name of the person or entity seeking approval of its application, the location of the telecommunications facility, and the proposed height. of the telecommunications structure. The notice shall also give the date and time of the meeting at which the application will come before the board of commissioners for consideration and approval. If the application is to be considered at a work session prior to a regular commission meeting, the date and time of both the work session and regular commission meetings shall be stated in the notice. Additionally, the applicant shall post a notice on the property on which the telecommunications facility is proposed to be located containing the same information as that required to be published in the newspaper. The posted notice shall be located in a clearly visible location, legible from the nearest public street, with each letter of print at least one (1) inch in height and the sign itself being no less than two (2) feet high by three (3) feet wide. An affidavit of the publisher or his authorized agent certifying that the advertisement has been published in the legal organ shall accompany each application.

The application may be reviewed and considered by the board of commissioners at the next regularly scheduled board of commissioners meeting following the necessary publication and posting of the application. The board of commissioners shall not act or vote upon the application until the second regularly scheduled board meeting following the publishing of the required notice. This provision shall not, however, prohibit the board of commissioners from considering or voting upon the approval of an application at a called meeting, so long as such called meeting takes place after the second regularly scheduled board meeting following the publishing of the notice.

Sec. 74-94. Appeals.

Appeals from any decision of the director may be taken by any person aggrieved or any official of the county affected by the decision of the director. Such appeal shall be to the board of commissioners pursuant to this section. Appeals from any decision of the board of commissioners shall be made to the superior court within 30 days of the decision. Any decision by the director or by the board of commissioners denying a request to place, construct or modify a telecommunications facility shall be in writing and supported by substantial evidence in a written record. Any decision by the board of commissioners denying or approving a request to place, construct or modify a telecommunications facility shall be in writing and supported by substantial evidence in a written record.

Sec. 74-95. Conditional use permit.

Whenever the board of commissioners finds that the application of this article would unreasonably discriminate among providers of functionally equivalent personal wireless services or prohibit or have the effect of prohibiting the provision of personal wireless services, a conditional use permit waiving any or all of the provisions of this article may be granted.

DIVISION 4. REGULATIONS

Sec. 74-121. Collocation.

The applicant and owner shall allow other future personal wireless service companies, including public and quasi-public agencies, using functionally equivalent personal wireless technology to co-locate antennae, equipment and facilities on a telecommunications facility unless specific technical constraints prohibit said collocation. Applicant and other personal wireless carriers shall provide a mechanism for the construction and maintenance of shared facilities and infrastructure and shall provide for equitable sharing of cost in accordance with industry standards.

Sec. 74-122. Nuisances.

Telecommunications facilities, including, without limitation, power source, ventilation and cooling, shall be operated at all times within the limits of chapter 34, article III of this Code, shall not be operated so as to cause the generation of heat that adversely affects a building occupant and shall not be maintained or operated in such a manner as to be a nuisance.

Sec. 74-123 Removal of antennae and towers.

All telecommunications facilities shall be maintained in compliance with standards contained in applicable building and technical codes so as to ensure the structural integrity of such facilities. If upon inspection by the director any such telecommunications facility is determined not to comply with the code standards or to constitute a danger to persons or property, then upon notice being provided to the owner of the facility and the owner of the property if such owner is different, such owners shall have 30 days to bring such facility into compliance. In the event such telecommunications facility is not brought into compliance within 30 days, the county may provide notice to the owners requiring the telecommunications facility to be removed. If such telecommunications facility is not removed within 30 days of receipt of such

notice, the county may remove such facility and place a lien upon the property for the costs of removal. Delay by the county in taking action shall not in any way waive the county's right to take action. The county may pursue all legal remedies available to it to insure that telecommunications facilities not in compliance with the code standards or which constitute a danger to persons or property are brought into compliance or removed. The county may seek to have the telecommunications facility removed regardless of the owner's or operator's intent to operate the tower or antenna and regardless of any permits, federal, state or otherwise, which may have been granted.

Sec. 74-124. Abandoned towers.

- (a) Any telecommunications facility that is not operated for a continuous period of 12 months shall be considered abandoned, whether or not the owner or operator intends to make use of it or any part of it. The owner of a telecommunications facility and the owner of the property where the facility is located shall be under a duty to remove the abandoned telecommunications facility. If such antenna and/or tower is not removed within 60 days of receipt of notice from the county notifying the owner(s) of such abandonment, the county may remove such tower and/or antenna and place a lien upon the property for the costs of removal. The county may pursue all legal remedies available to it to insure that abandoned telecommunications facilities are removed. Delay by the county in taking action shall not in any way waive the county's right to take action. The county may seek to have the telecommunications facility removed regardless of the owner's or operator's intent to operate the tower or antenna and regardless of any permits, federal, state or otherwise, which may have been granted.
- (b) If the owner of an abandoned tower or antenna wishes to use such abandoned tower or antenna, the owner first must apply for and receive all applicable permits and meet all of the conditions of this ordinance as if such tower or antenna were a new tower or antenna.

Sec. 74-125. Preexisting towers/nonconforming uses.

- (a) All telecommunications facilities operative prior to the effective date hereof shall be allowed to continue their present usage as a non-conforming use and shall be treated as a non-conforming use in accordance with sections 74-91 -- 74-93. Routine maintenance, including replacement with a new tower or antenna of like construction and height, shall be permitted on such existing telecommunications facilities. New construction other than routine maintenance shall comply with the requirements of this article.
- (b) A telecommunications facility that has received county approval as of the effective date of the ordinance from which this article is derived in exception, but has not yet been constructed or placed in operation shall be considered an existing telecommunications facility so long as such approval is current and not expired.
- (c) Placement of an antenna on a nonconforming structure shall not be considered an expansion of the nonconforming structure.

